

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Jillian Trinidad

v.

Case No. 09-cv-74-PB

Bowe Bell & Howell Co., Inc.

O R D E R

Plaintiff has failed to establish that state law, the federal rules of civil procedure, or the due process clause entitle her to have a *DeBenedetto* notice stricken if it is not pleaded with the specificity required of a third party complaint. Nevertheless, using my inherent power to supervise this litigation, I require the defendant to provide a revised notice within 14 days:

- (1) identifying the entity that is the subject of the notice (including any information in the defendant's possession that would allow the plaintiff to make service on the entity);
- (2) identifying the legal theories under which the defendant contends the entity may be liable; and
- (3) identifying the material facts of which the defendant is aware that support a potential claim against the entity.

Plaintiff shall be allowed to conduct discovery concerning the *DeBenedetto* issue (and shall be entitled to a reasonable extension of discovery deadlines if needed to conduct discovery). If plaintiff contends that the defendant cannot satisfy its burden of proof with respect to the *DeBenedetto* issue, she may move for partial summary judgement on the issue.

The Motion to Strike Late DeBenedetto Disclosure (Doc. No. 9) is denied.

SO ORDERED.

/s/Paul Barbadoro
Paul Barbadoro
United States District Judge

December 10, 2009

cc: Christopher Flanagan, Esq.
Jeffrey B. Osburn, Esq.
David S.V. Shirley, Esq.